

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JUSTIN MARCUS ZINMAN,

Plaintiff,

v.

LLAMAS, *et al.*,

Defendants.

Case No. 1:24-cv-00549-JLT-BAM (PC)

ORDER REGARDING PLAINTIFF'S  
MOTION TO WITHDRAW/CLOSE CASE

(ECF No. 15)

Plaintiff Justin Marcus Zinman ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action under 42 U.S.C. § 1983. The complaint has not yet been screened. On September 6, 2024, Plaintiff filed a motion to withdraw/close case. (ECF No. 15.)

"[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment." *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it." *Id.* at 1078. No defendant has been served in this action and no defendant has filed an answer or motion for summary judgment.

Plaintiff states that he changed his mind and has no interest in prosecuting any cases. He

1 is satisfied that all his claims are frivolous, and even if there was some merit, he has no interest in  
2 prosecuting. Plaintiff states that he realizes this will waive his ability to prosecute this case and is  
3 not interested in prosecuting this case under any circumstances, or any cases. Although Plaintiff  
4 has not specified that this dismissal is “with prejudice,” the Court finds that Plaintiff has  
5 expressed his clear intent not to prosecute this action, now or in the future, and finds that a  
6 dismissal with prejudice is appropriate. Fed. R. Civ. P. 41(a)(2).

7 Accordingly, this action is terminated, with prejudice, by operation of law without further  
8 order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to  
9 terminate all pending motions and deadlines, and close this case.

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11 IT IS SO ORDERED.

12 Dated: September 9, 2024

/s/ Barbara A. McAuliffe  
13 UNITED STATES MAGISTRATE JUDGE  
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